

**REMARKS**

This Amendment is submitted in reply to the Office Action dated June 24, 2004. Claims 45-84 were pending in the application. In the Office Action, claims 45-84 were rejected. In this Amendment, claims 46, 49, 52, 54 and 59 have been amended. Claims 45-84 thus remain for consideration.

Applicant submits that claims 45-84 are in condition for allowance, and requests reconsideration and withdrawal of the rejections in light of the following remarks.

**§112 Rejections**

Claims 46, 49, 52, 54 and 59 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has amended claims 46, 49, 52, 54 and 59 and submit that claims 46, 48, 52, 54 and 59 are now in compliance with §112. Accordingly, Applicant requests that the rejections under §112 be withdrawn.

**§103 Rejections**

Claims 45, 47, 49-51, 53, 55-58 and 60-84 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hsu (U.S. Patent No. 5,785,598).

Applicant submits that the independent claims (claims 45, 51, 55, 61, 65, 71, 75 and 80) are patentable over Hsu.

Applicant's invention as recited in the independent claims is directed toward an information processing apparatus and method. The claims specify that, upon execution of a

booting program, the information processing apparatus can select data such as image data or sound data used in the booting process from different data storages.

The Examiner asserts that the BIOS disclosed in Hsu corresponds to the booting program of the present invention. However, it is well known that a BIOS is a program code for selecting the booting program, and nothing in Hsu indicates that Hsu intends the term BIOS to have a meaning other than its well known meaning. Therefore, Hsu's BIOS does not correspond to the booting program according to the present invention.

The Examiner further asserts that Hsu discloses a BIOS ROM including BIOS program code that implements a software routine to load a boot program for starting up the information processing apparatus selectively from an existing game cartridge or an add-on card. However, close inspection of Hsu reveals that Hsu simply discloses a BIOS program code for selecting the booting program stored in the add-on card or the booting program stored in the game cartridge. That is, the BIOS program code itself is not the booting program.

Since Hsu fails to disclose an information processing system wherein, upon execution of a booting program, the information processing apparatus can select data such as image data or sound data used in the booting process from different data storages, Applicant believes that claims 45, 51, 55, 61, 65, 71, 75 and 80 are patentable over Hsu on at least this basis. Furthermore, since dependent claims inherit the limitations of their respective base claims, Applicant believes that dependent claims 46-50, 52-54, 56-60, 62-64, 66-70, 72-74, 76-79 and 81-84 are patentable over Hsu for at least the same reasons as the independent claims.

Applicant submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicant's undersigned attorney and, in the event that the Examiner disagrees with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Bruno Polito  
Reg. No. 38,580  
(212) 588-0800